

p3 ◀ Research capacity, critical social science . . .

Tombs and Whyte recently 'urge[d] colleagues to join the debate' about higher education and research capacity 'begun in the pages of the SLN'. This debate, it would seem, at least judging by a number of recent developments, has been joined by a growing number of socio-legal scholars. Whatever the differing views individuals have of the processes transforming universities, underscoring the concerns which are being expressed about research capacity in law is a fundamental question about what is happening to many aspects of academic life and, indeed, to academic identities themselves; questions which, it would seem, do appear to have a resonance for many socio-legal scholars.

- 1 D Mamet (1993) *Oleanna* (London: Methuen Royal Court Writers Series) pp 32–33, original emphasis.
- 2 S Tombs and D Whyte (2003) 'Shining a light on power?' SLN 41: 1; L Bibbings (2003) 'The future of higher education' SLN 40: 1; R Collier (2003) "'Useful knowledge" and the "new economy"' SLN 39:3.
- 3 www.ucl.ac.uk/laws/genn/empirical/index.shtml
- 4 This literature is voluminous, eg: A Brooks & A Mackinnon (eds.) (2001) *Gender and the Restructured University* (Buckingham: SRHE/Open UP); A Smith & F Webster (eds) (1998) *The Postmodern University? Contested visions of higher education in society* (Buckingham: SRHE/Open UP); J Currie & J Newson (eds) (1998) *Universities and Globalization* (London: Sage); S Cooper, J Hinkson & G Sharp (2002) *Scholars and Entrepreneurs* (Melbourne: Arena); T Schuller (ed) (1995) *The Changing University?* (Buckingham: SRHE/Open UP); J Currie, B Thiele & P Harris (2002) *Gendered Universities in Globalized Economies: Power, careers and sacrifices* (Lexington: Maryland).
- 5 Compare, eg, developments in criminology: P Hillyard *et al* 'Leaving a "stain upon the silence": contemporary criminology and the politics of dissent' (2004) *British Journal of Criminology* 44: 369–90; R Walters 'New modes of governance and the commodification of criminological knowledge' (2003) *Social and Legal Studies* 12 (1): 5–26.
- 6 S Slaughter and L Leslie (1997) *Academic Capitalism: Politics, policies and the entrepreneurial university* (Baltimore, MD: John Hopkins UP).
- 7 Bibbings, n 2.
- 8 See, generally, A Bradney (2003) *Conversations, Choices and Chances: The liberal law school in the twenty-first century* (Oxford: Hart).
- 9 R Card, 'Presidential Address 2002: the legal scholar' (2002) *The Reporter: The newsletter of the Society of Legal Scholars* 25:5.
- 10 F Cownie (2004) 'Researching (socio) legal academics' SLN 42: 1.
- 11 Cf P Hillyard (2002) 'Invoking indignation: reflections on future directions of socio-legal studies' JLS 29(4): 645–56.
- 12 See further Bradney, n 8.
- 13 F Cownie (2004) *Legal Academics: Culture and identities* (Oxford: Hart).
- 14 It is important to remember, for example, that Halsey and Trow's typical 'British academic' in 1971 was in all likelihood white, male and middle-class; the form of community in which he participated marked by a white, middle-class, male collegiality: AH Halsey and P Trow (1971) *The British Academics* (London: Faber).
- 15 J Bakan (2004) *The Corporation* (Toronto, Viking Canada) p 166.
- 16 M Thornton (2001) 'The demise of diversity in legal education: globalisation and the new knowledge economy' (2001) *International Journal of the Legal Profession* 8(1): 37–56; M Thornton 'Among the ruins: law in the neo-liberal academy' (2001) *Windsor Yearbook of Access to Justice* 8(1): 3–23; also HW Arthurs 'Globalization of the mind: Canadian elites and the restructuring of legal fields' (1997) *Canadian Journal of Law and Society* 12(2): 219.
- 17 See, eg, J Hurstfield and F Neathy (2002) *Recruitment and Retention of Staff in UK Higher Education 2001* (London: IRS Research): 'Pay levels were cited by many as the main reason for . . . problems. Higher pay offered by the private sector was viewed as a key factor impacting upon institutions' ability to attract and retain . . . some groups of academic staff – notably those in law, IT and engineering' (p 10, my emphasis), 'The subjects that were particularly problematic were accountancy, law and economics' (p 57). See also *Recruitment and Retention in UK Higher Education* (2000) (London: CVCP Publications).
- 18 And at the same time as, it would seem, the numbers of home PhD students are, across many institutions, declining.
- 19 Adopting the language of corporate enterprise and innovation is one thing: encouraging genuine innovation, creativity and critical thinking on the part of academics and law students is another: see T Blacker, 'A degree of dangerous philosophy' *The Independent* 22/11/02.
- 20 S Marginson (1997) *Markets in Education* (Sydney: Allen & Unwin).

PAINTING A FUTURE FOR ACADEMIC SCHOLARSHIP – RESISTANCE, DISSENT AND BOYCOTT

Reece Walters examines the dilemmas faced by academics in search of funding and calls for a hard line including an academic boycott on projects funded by the Home Office.

Recent articles in the SLN by Richard Collier, Lois Bibbings, Steve Tombs, Paddy Hillyard and Dave Whyte have all presented informative, accurate and provocative accounts of the perils and politics of contemporary academic scholarship. I agree with their arguments and with their analyses of the present state of higher education research in the UK and do not wish to rehearse them here. There is an increasing recognition that the commercialisation of the tertiary sector within neo-liberal political and economic discourses continues to colonise research agendas with critical voices demarcated to an increasingly marginalised periphery. Indeed, this growing emphasis on market principles and economic reform has received substantial criticism at an international level. Frederic Mayor, former Director-General of UNESCO, has publicly condemned the neo-liberal economic influence sweeping universities around the world by stating, 'if we create market universities run purely on market principles, they may be of their age, but they will not be able to transcend it' (Mayor, 1997). My intention here, is briefly to extend upon the comments already raised and to invoke a position of resistance to the colonisation and indeed tyranny of administrative, market-led and uncritical research within academic institutions.

First, some further observations. The market-led model within tertiary institutions has created new commercial opportunities in what I call the production of 'private' or, in some instances 'secret' knowledge. That is, knowledge that is commissioned by a contractor, either government or non-government, where the dissemination of that knowledge is determined by the fee-paying agency. Academics who act as service providers to paying clients often sign away their entitlements to publish results emanating from the original research. The distribution, and hence the consumption of knowledge, becomes regulated by authorities who have 'purchased' the research. Academics who reject contractual clauses that erode their intellectual property rights often risk losing the contract, and those who deliberately violate the contract in order to pursue what they feel is their academic responsibility to publish jeopardise future funding opportunities and risk legal action.

Why do many academics engage in fee-paying research under contract to a client? First, there is a belief by those who sign contracts or accept fee-paying consultancies that they will have access to information that would otherwise be unattainable. I agree with this, however, the limitations often placed upon dissemination renders the access almost entirely useless as the proceeds of the research are often consumed solely by the fee-paying organisation. The research that is published for general public access (if at all) is either very watered-down or simply reproduces the sorts of information that are obtainable on the web. Second, there is a view that private consultancies, notably with a government agency, will have an impact on policy and practice. However, there is little or no evidence to sustain this

point. The vast majority of reports, by the nature of the research parameters, simply endorse government policy. Reports that challenge the *status quo* are usually shelved or have specific sections (notably those favourable to government) highlighted in executive summaries.

Third, there is a belief that academic careers will be advanced by 'bringing in money' through contract research. In many instances this is true, however, I also see the damaging effects of contract research. In my experience, university promotion committees grant little significance to government-published research reports in favour of refereed journal articles. Moreover, younger or more junior academics are increasingly exploited by university departments that emphasise 'money-led research'. They are expected, in some instances, to be involved in contract and consulting research to the detriment of their academic development as permanent positions in academia require a profile of refereed publications that will contribute to the RAE. Finally, private consultancies provide opportunities for academics to 'make money' and hence we are witnessing a 'research for profit' culture. Many academics are entering a growing industry or market where their knowledge and expertise has considerable commercial value. There is increasing evidence of some academics leaving academia and opening their own consultancy businesses or alternatively operating their own private research companies while maintaining their academic posts. The primary motivation for engaging in these commercial arrangements is not the production of new knowledges or to influence policy and practice, but to make money. For example, in the UK there is a growing amount of private work undertaken by academic criminologists for security firms. This is insidious at both an ideological level and in an ethical sense as the academic responsibility to develop new knowledges and to act as critic and conscience of society is jettisoned in favour of individual profit where academic credentials give credence to the policies of security firms that aim to maximise margins while (often) adopting a range of strategies that serve to marginalise and regulate the already seriously marginalised groups in society.

Resistance and boycott

In my view, academics must resist the often lucrative markets of contract research and private consultancies. Academics are not paid from the taxpayers' purse to profit personally by granting legitimacy to corporations driven by capitalist enterprise. Nor should academics participate in government research agendas that ignore, for example, crimes committed by the most powerful and wealthy in society, while endorsing policies that aim to regulate the already over-regulated in society (the poor, the young, the ethnic minority and so on). As Hillyard *et al* (2004) have persuasively argued, the Home Office has a research agenda heavily skewed in favour of regulating the poor and powerless in society. Any attempt by a researcher engaged in Home Office research to critique government policy or to challenge the decisions of ministers is usually met with a range of techniques of neutralisation that aim to silence and suppress the critical voice. Moreover, the Home Office will abort research that 'is no longer of interest to ministers or policy colleagues, either the research has been so delayed that the results are no longer of any interest or because ministers or officials have changed their priorities' (Walters, 2003, p 57). Academics may spend months or even years planning and implementing research that is funded by the Home Office, only to have the plug pulled because a minister has changed his or her mind. Academics should never operate under such conditions and until

the Home Office develops a research agenda that seriously addresses crimes of the powerful and permits independent scholarship to occur without interference and to be published verbatim, then I say academics must boycott the seeking of, and participation in, Home Office research as well as all research for private security firms where the *modus operandi* is making money and increasing return to shareholders rather than addressing issues of social injustice and exclusion. The negative experiences of academic criminologists engaged in research with the Home Office is vast and yet the message has not sunk in – the Home Office is only interested in rubberstamping the political priorities of the government of the day. If it were concerned with understanding and explaining the most violent aspect of contemporary British society (notably the modern corporation), it would fund projects that would analyse corporate negligence, commercial disasters and workplace injuries – but it doesn't. If it were concerned with violence and human rights abuses, it would fund projects to examine the state's role in Northern Ireland – but it doesn't. If it were concerned with the costs of crime, it would examine state and corporate criminality which dramatically outweighs the costs of conventional crime – but it doesn't.

Michel Foucault urged that critical voices should be expressed through diverse narratives and Chomsky has identified the need to seek out audiences or communities of 'collective concern' to identify injustice. Moreover, Stan Cohen cogently demonstrated in his excellent book *States of Denial* that there exists what he calls an 'intellectual denial' where 'well-functioning minds become closed, and the gaze is averted from the uglier parts of their ideological blueprints and experiments. Or they allow themselves – for tangible rewards or an eagerness to please the powerful – to be duped into pseudo-stupidity. These shameful records of collusion go way back.' (Cohen, 2002, p 280) If academics are to become nothing more than mere information gatherers for government, and not prepared to critique the role of the state, or challenge new modes of conservative governance, or address questions relating to social and political order in fear of losing contracts, then the academic criminologist is reduced to a co-conspirator in the policing of knowledge.

There is much to be gained through establishing networks of collective concern (with academics, professional bodies, campaigning and voluntary groups) that advocate for the promotion of multiple narratives, social justice and the dissemination of new and critical knowledges.

Finally, I suggest what is needed is an increase and a vocal outpouring of the critical voice or what I call 'deviant knowledge' (that which is critical of contemporary forms of governance and challenges the existing social order). I am strongly opposed to academics (notably to senior academics who have more choice) engaging in contract research that simply grants legitimacy to the ongoing criminalisation and marginalisation of some of the poorest and most disadvantaged members of society. True, there are risks in adopting a position of resistance, but the alternative is a form of intellectual collusion that is akin to corruption.

Cohen, S (2003) *States of Denial. Knowing about atrocities and suffering* (London: Polity).

Hillyard, P, Sim, J, Tombs, S & Whyte, D (2004) 'Leaving a "stain upon the silence": contemporary criminology and the politics of dissent', *British Journal of Criminology* 44: 369–90.

Walters, R (2003) *Deviant Knowledge – Criminology, politics and policy* (Devon: Willan)